

REMARKS

Claim 1 is amended for purposes of expediting prosecution. Support for the amendment is provided by the example embodiments described on page 2, lines 10-12 and on page 6, lines 12-14, for example. Claims 1-10 remain and claims 11-30 are withdrawn. Reconsideration of the claims and allowance of the application are respectfully requested.

The rejection of claims 1-10 under 35 U.S.C. §112, second paragraph, as being indefinite is respectfully traversed. The rejection is moot, however, in view of the amendment to claim 1 and should be withdrawn.

Claims 1-2, 4, and 6-10 are understood to be novel over "Kirshenbaum" ("Modeling Disk Arrays Using Genetic Programming" to Kirshenbaum) under 35 USC §102(b). The rejection is respectfully traversed because the Office Action does not show that all the limitations of the claims are taught by Kirshenbaum.

The invention set forth in claim 1 is for "determining difficulty measures for training cases used in developing a solution to a problem. " The difficulty measures are useful in selecting a suitable set of training cases for the candidate solutions. As explained in the Detailed Description (page 3, line 24 – page 4, line 12), the number of available training cases may be prohibitively large, making the presentation of every training case to each candidate computationally infeasible. Presentation of fewer training cases to the candidate population may avoid development of a solution that is valid for the cases within the training case set, but does not generalize to cases outside the training case set. Biasing the selection of the training cases towards selection of more difficult training cases enhances the development of solutions that are proficient at solving more difficult problems. Candidate solutions that are able to solve the more difficult training cases proficiently may be better able to generalize and produce more accurate results when presented with a real (non-training) problem. Thus, the determining of difficulty measures for training cases may aid in selecting those that are most suitable in developing a solution to a problem.

In contrast, Kirshenbaum describes a use of genetic programming to evolve models that predict throughput in disk arrays. There is no apparent suggestion by Kirshenbaum of a candidate solution having a "credibility rating indicating a degree to which the performance measure is representative of the difficulty measure of the particular training case" in combination with "modifying the difficulty measure ... based on the performance measure of the candidate solution ... and the credibility rating of the candidate solution." Since these limitations are neither taught nor suggested by Kirshenbaum, claim 1 is understood to be novel.

Claims 2, 4, and 6-10 depend from claim 1 and include further limitations that refine the limitations of claim 1. Thus, the Office Action has not shown that Kirshenbaum teaches the limitations of these dependent claims.

The rejection of claims 1-2, 4, and 6-10 should be withdrawn because the Office Action has not shown that all the limitations of the claims are anticipated by Kirshenbaum.

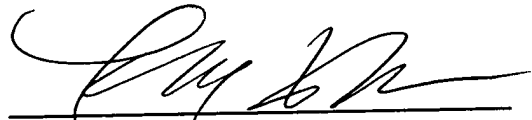
Claims 3 and 5 are understood to be patentable under 35 USC §103(a) over Kirshenbaum. The rejection is respectfully traversed because the Office Action does not show that all the limitations are suggested by the reference and does not provide a proper motivation for modifying the teachings of Kirshenbaum.

Claims 3 and 5 have claim 1 as a base claim. Thus, the Office Action has not shown that Kirshenbaum suggests the limitations of claims 3 and 5 for at least the reasons set forth above. Furthermore, the asserted motivation for modifying Kirshenbaum is unsupported by evidence. Therefore, a *prima facie* case of obviousness has not been established and the rejection should be withdrawn.

CONCLUSION

Withdrawal of the rejection and reconsideration of the claims are respectfully requested. If the examiner has any questions or concerns, a telephone call to the undersigned is welcome. No extension of time is believed to be necessary for consideration of this response. However, if an extension of time is required, please consider this a petition for a sufficient number of months for consideration of this response. If there are any additional fees in connection with this response, please charge Deposit Account No. 50-0996 (HPCO.129PA).

Respectfully submitted,

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